

**BOULT
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CONNERS
& BERRY** PLC

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August 15, 2000

REC'D TN
REGULATORY AUTH.
AUG 15 PM 2 28
TELEPHONE (615) 244-2582
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INTERNET WEB <http://www.bccb.com/>
EXECUTIVE

Mr. David Waddell
Executive Secretary
Tennessee Regulatory Authority
360 James Robertson Parkway
Nashville, TN 37201

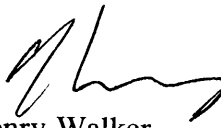
Re: Tariff Filings by all Telephone Companies Regarding Reclassification of
Pay Telephone Service as Required by FCC Order 96-439
Docket No. 97-00409

Dear Mr. Waddell:

Please accept for filing the original and thirteen copies of the Tennessee Payphone Owners Association's response to BellSouth Telecommunication's first data requests. Copies have been provided to parties of record.

Very truly yours,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By: 
Henry Walker

HW/nl
Enclosure

POSTED
12/8/00

BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

RE: TARIFF FILINGS BY LOCAL EXCHANGE COMPANIES TO
COMPLY WITH FCC ORDER 96-439 CONCERNING THE
RECLASSIFICATION OF PAY TELEPHONES

FILED TO
REGULATORY AUTH.
00 AUG 15 PM 2 28
EXECUTIVE SECRETARY

DOCKET NO. 97-00409

RESPONSES OF TENNESSEE PAYPHONE OWNERS ASSOCIATION
TO DISCOVERY REQUESTS OF BELL SOUTH TELECOMMUNICATIONS, INC.

The Tennessee Payphone Owners Association ("TPOA") hereby makes the following responses to the discovery requests and requests for production submitted by BellSouth Telecommunications, Inc. ("BellSouth").

1. Does the recent 8th Circuit Court of Appeals' decision rejecting the TELRIC pricing methodology (No. 96-3321 and consolidated cases) change your position in this docket regarding the pricing of pay telephones in Tennessee? If it does, please explain in detail each and every aspect of your position that has changed in light of the 8th Circuit decision.

RESPONSE:

No.

**RESPONSES OF TENNESSEE PAYPHONE OWNERS ASSOCIATION
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DOCKET 97-00409
DATED 8/15/00**

2. If your answer to Data Request No. 1 is in the negative, please explain your answer in detail.

RESPONSE:

It is TPOA's position that BellSouth's payphone line rate must be cost-based, non-discriminatory, and consistent with both Section 276 of the federal Telecommunications Act (47 U.S.C. §276) and the FCC's Computer III tariffing guidelines (the "new services test"). To satisfy the new services test, BellSouth must demonstrate that its proposed rate does not recover more than the direct cost of the service plus a just and reasonable portion of the carrier's overhead costs. Costs must be determined by the use of a forward-looking economic cost methodology that is consistent with the principles set forth in the FCC's "Local Competition First Order and Report" (11 FCC Rcd. 15499, 1996.) Cost study inputs and assumptions used to justify payphone rates should be consistent with the cost inputs used in computing rates for other services offered to competitors. Therefore, absent justification, BellSouth may not recover a greater share of overheads in payphone line rates than BellSouth recovers in rates for comparable services. Given that the new services test is a cost-based test, overhead allocations must be based on cost, and therefore may not be set artificially high in order to subsidize or contribute to other BellSouth services. For purposes of justifying

overhead allocations, UNEs appear to be “comparable services” to payphone line services, because both provide critical network functions to BellSouth’s competitors and both are subject to a “cost-based” pricing requirement. Thus, BellSouth must explain and justify any overhead allocations for its payphone line services that represent a significant departure from approved overhead allocations for UNE services. UNE cost studies can also be adjusted as necessary to reflect any demonstrated, significant cost differences (for example, retail vs. wholesale costs) BellSouth incurs in providing UNEs and in providing payphone lines. There is nothing in the 8th Circuit opinion which is inconsistent with this statement of TPOA’s position.

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3. The Common Carrier Bureau's Order concerning payphone rates in Wisconsin (Wisconsin Public Service Commission Order Directing Filings CC B/C PD No. 00-1, DA 00-347 (rel. Mar 2, 2000) ¶ 13) applies only to ILECs in that state. In light of that fact, do you believe that the Wisconsin Order should have any applicability to rates which PSPs pay in Tennessee?

RESPONSE:

Yes.

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4. If your answer to Data Request No. 3 is in the affirmative, please explain your answer in detail.

RESPONSE:

The Wisconsin decision establishes federal guidelines for the pricing of payphone lines. Since the FCC retains jurisdiction over payphone rates and has the legal authority to preempt inconsistent state rulings, the guidelines in the Wisconsin decision will presumably govern the determination of payphone rates in Tennessee.

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5. Do you believe that the rates for public telephone access service ("PTAS") should be priced at cost? If so, please explain why and identify the cost methodology that you believe should be applied (i.e. LRIC, TSLRIC, TELRIC, etc.)?

RESPONSE:

Yes, because the FCC has declared that payphone access lines must be "cost-based" and, among other things, consistent with the "new services test," which is a cost-based test. The proper methodology to be applied is TSLRIC plus demonstrated shared and common costs.

**RESPONSES OF TENNESSEE PAYPHONE OWNERS ASSOCIATION
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6. Other than whether the rates for PTAS in Tennessee meet the FCC's "new services" test, do you believe that the Authority must or should address any other issues in this docket?

RESPONSE: Yes.

**RESPONSES OF TENNESSEE PAYPHONE OWNERS ASSOCIATION
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7. If the answer to Data Request No. 6 is in the affirmative, please: (a) state every other issue you believe the Authority must or should address in this docket; and (b) provide a detailed explanation of your position on each such issue.

RESPONSE:

The TRA must also determine in this proceeding whether BellSouth's rates are cost-based, non-discriminatory, and consistent with Section 276 of the Act. It is TPOA's position that, based on information provided to date by BellSouth, BellSouth's proposed rates do not comply with any of those requirements. These issues will be addressed in more detail in the pre-filed testimony of Don Wood following BellSouth's response to TPOA's data request.

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8. Do you believe that the existing rates for PTAS in Tennessee meet the FCC's "new services" test? Please explain your answer in detail.

RESPONSE:

No. To meet the "new services test," BellSouth must justify both its direct costs and shared and common costs and demonstrate that these costs are just and reasonable. Based on BellSouth's filings to date, BellSouth has failed to make that demonstration. This issue will be examined further in the pre-filed testimony of Don Wood after BellSouth responds to TPOA's data requests.

**RESPONSES OF TENNESSEE PAYPHONE OWNERS ASSOCIATION
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9. Do you believe that the Authority should address the access line rates for PSPs in Tennessee outside of an overall rate rebalancing procedure? If so, please explain your answer in detail.

RESPONSE:

No. BellSouth is obligated by federal law to file intrastate payphone rates in Tennessee that are cost-based, non-discriminatory, and consistent with Section 276 and the new services test. TPOA is aware of no legal authority which would permit BellSouth to delay compliance with those requirements pending the completion of an overall, rate rebalancing proceeding.

**RESPONSES OF TENNESSEE PAYPHONE OWNERS ASSOCIATION
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10. Do you believe that the pricing methodology utilized to set PTAS rates should be different from that utilized for other business customers? If so, please explain your answer in detail.

RESPONSE:

Yes. Federal law dictates the pricing of BellSouth's rates for pay telephone lines. There are no such requirements concerning the pricing of BellSouth's business line rates.

**RESPONSES OF TENNESSEE PAYPHONE OWNERS ASSOCIATION
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11. Do you believe that pricing PTAS services at cost eliminates competition for PSPs among CLECs?

RESPONSE:

No.

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12. If your answer to Data Request No. 11 is negative, please fully explain your answer in detail.

RESPONSE:

If costs are properly determined, a TRA decision pricing pay telephone lines at cost will not eliminate competition from CLECs. TPOA cannot provide a more detailed response until BellSouth first explains why it believes that cost-based rates will eliminate competition from CLECs.

**RESPONSES OF TENNESSEE PAYPHONE OWNERS ASSOCIATION
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13. Please identify all members of the TPOA.

RESPONSE:

TPOA objects to each of these questions (13-17) on the grounds that information about TPOA and its members has no relevance to this proceeding, the purpose of which is to establish intrastate payphone line rates in accordance with Section 276 and the rules and orders of the FCC. If TPOA did not exist, or were not a party to this docket, BellSouth would still be required to file intrastate payphone rates and supporting documentation consistent with the FCC's instructions. The TRA would still be required to determine whether those rates are consistent with federal law. BellSouth's questions about individual TPOA members, especially BellSouth's request that TPOA members provide copies of tax returns, serve no apparent purpose other than to harass the members and deter them from participating in this litigation. Finally, as the TRA has ruled in other similar proceedings, trade organizations such as TPOA are not required to respond to discovery on behalf of individual members of the organization.

Notwithstanding these objections, and without waiving these arguments, TPOA submits the attached list of TPOA members and the number of payphone lines of each member.

**RESPONSES OF TENNESSEE PAYPHONE OWNERS ASSOCIATION
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14. Please state how many PTAS lines each of your members subscribes to in BellSouth's service territory.

RESPONSE:

See response to question 13.

**RESPONSES OF TENNESSEE PAYPHONE OWNERS ASSOCIATION
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15. Please state how many PTAS lines each of your members subscribes to in the State of Tennessee.

RESPONSE:

See response to question 13.

**RESPONSES OF TENNESSEE PAYPHONE OWNERS ASSOCIATION
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16. Do you believe that your members will suffer financially if the PTAS rate is not reduced?

RESPONSE:

See response to question 13.

**RESPONSES OF TENNESSEE PAYPHONE OWNERS ASSOCIATION
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17. If the answer to Data Request No. 16 is in the affirmative, please provide copies of the most recent tax returns for each of your members, profit and loss statements for each of your members, and any and all other documents which support your response to Data Request No. 16.

RESPONSE:

See response to question 13.

**RESPONSES OF TENNESSEE PAYPHONE OWNERS ASSOCIATION
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18. Please identify any and all expert witnesses you expect to use in this proceeding; state the subject matter on which the expert is expected to testify; and state the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion.

RESPONSE:

Don Wood will testify as an expert witness for TPOA and will explain why the pay telephone line rates proposed for BellSouth do not conform to the requirements of Section 276 and the rules and orders of the FCC. Mr. Wood will also respond to testimony presented by BellSouth. Mr. Wood's position on the issues before the agency will be explained in detail in his pre-filed testimony.

**RESPONSES OF TENNESSEE PAYPHONE OWNERS ASSOCIATION
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19. Please produce copies of any and all cost studies you intend to use or introduce into the record in this proceeding.

RESPONSE:

Not applicable at this time.

**RESPONSES OF TENNESSEE PAYPHONE OWNERS ASSOCIATION
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DOCKET 97-00409
DATED 8/15/00**

20. Produce copies of all documents which are identified in your response to any of these Data Requests or which support your response to any of these Data Requests.

RESPONSE:

Not applicable at this time.

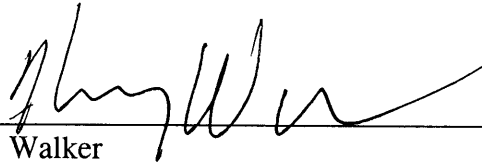
**RESPONSES OF TENNESSEE PAYPHONE OWNERS ASSOCIATION
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DATED 8/15/00**

21. Please produce copies of any other documents you intend to use or introduce into the record in this proceeding.

RESPONSE:

Not applicable at this time.

Respectfully submitted,



Henry Walker
Boult, Cummings, Conners & Berry, PLC
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P.O. Box 198062
Nashville, TN 37219
(615) 252-2363

Attorney for Tennessee Payphone Owners
Association

CERTIFICATE OF SERVICE

I hereby certify that on August 15, 2000 a copy of the foregoing document was served on the parties of record, via U.S. Mail, addressed as follows:

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Henry Walker

ATTACHMENT

**TPOA
Dues Report
2000**

Company	No. of Phones
American Communication Services	UN
Award Enterprises	164
Aztex Enterprises	46
BBI	64
Casco Payphones	217
CFI,LLC	UN
Coin Phone Management	528
Coin Phones of America	176
Coin Tel	123
Coin Tel Systems	38
Cumberland Telecom	42
D&D Marketing (new owner, M. Tucker)	21
D&T Payphones	145
Davel Communications(Monthly plan)	4177
DGI Communications	200
ETS Payphones	UN
Executive Telecommunications	13
GTR	277
Jackson Communications	37
K&H Network	300
Knoxville Payphone and Vending	107
KPV Enterprises	148
L&B Enterprises	15
M&L Payphones	50
Memphis Payphones	3
Momatel Company	80
Money Makers	9
Nationwide Payphone Company	UN
Nowell Communications	24
P&D Telecommunications	214
PAR Phones	110
Payphones 4U	10
Procomm Inc.	207
Rentel	2
Samco Communications	87
Scarborough Enterprises	9
Skynet	6
SLT Ventures (dropped from APCC)	UN
Southern Telecommunications	88
Taylor Cameron Properties	17
Tennessee Payphone Services	26
Tennessee Telephone Audit Services	UN
Tennessee Valley Communications	75
Tennessee Valley Paytel	425
TIC	UN
Totals	8280

**TENNESSEE PAYPHONE OWNERS ASSOCIATION
1999 MEMBERSHIP DUES REPORT
July 22, 1999**

COMPANY	CONTACT	# PHONES IN TN
American Communications Services	Richard Zachary	18
Award Telecom	Jennifer Tramell	165
BBI	Ron Craig	50
Calls for Less Inc. Cfl Inc.	Terry Anderson	22
Casco Payphones	Charles Cook	192
Coin Phone Management Company	Tom Rose	440
Coin Phones of America	Doug Henderson	170
Coin Tel	Rob Hendricks	83
Coin Tel Systems	Larry Travis	31
Cumberland Telecom	Bob Kitchener	22
D & D Marketing, Inc.	David Mallery	4
D & T Payphones, Inc.	Terry & Debbie Driskill	141
DGI Communciations	Kim Brady	205
Davel Communications Group Inc	Teddy Rammelkamp	3,129
ETS Payphones, Inc.	Randy Garrett	100
Executive Telecommunications	Donna & Michael Guyton	13
Gotel Communications	Orlando Gonzalez	22
GTR, Inc	Bill Gardner	258
K & H Network, Inc.	Richard Kendall	312
Knoxville Payphone & Vending	Michael Gray or Bill Dupree	287
L & B Enterprises	Bret Thomas	11
M & L Pay Phones	Jim McCullough	13
Momatel Company	Carla McWherter	83
Money Makers Coco Telco	Chuck Ryan	13
Nationwide Payphone Co.	Charles Henderson	25
Nowell Communications	Steve Nowell	17
P & D Telecommunications	David McKinney Pam McKinney	217
PAR Phones	Dan Pierce	113
Payphones 4 U	George Huddleston Jr.	5

COMPANY	CONTACT	# PHONES IN TN
Payphones Of S.E. LLC	Roger Sutton	14
Procomm, Inc.	Bob Wilson	210
Rentel	Robert Neely	4
Samco Communications	Buzzie Samuels Barbara Samuels	60
Scarborough Enterprises, Inc.	C.R. Scarborough	8
SLT Ventures	Scott Taylor	65
Southern Telecommunications	Andy Maxey	66
Sweethome Communications Inc	David Miller Dodie Barger	0
Tennessee Payphone Services	Matthew Brown	16
Tennessee Telephone Audit Service	Robert S. Edgerton	12
Tennessee Valley Communications	William Dowding	63
Tennessee Valley Paytel	Bob Seagraves	408
TIC Communications	Nigel Baxter	4
Triangle Telephone Company	Haze Lancaster, Brian White, Jan Watkins	0
ASSOCIATE MEMBERS		
AT&T	Romy Shahidi	
Cirrus Communications	Brian Chamberlain	
Elcotel, Inc.	Rick Lubbehusen	
FPTA Technologies	Peter Fedor	
Hyperion of Tennessee	Bill Hinds	
ILD Teleservices, Inc. (was Interlink, Inc.)	Bob Gallagher Gary Hackney	
Independend Enclosures, Inc.	Guy Della Torre	
Intellical, Inc.	Bryan Bohnert	
Nix & Miller	Joyce C. Tucker	
North Atlantic Marketing	Vickie Atwell	
Opticom	Laura Cracraft	
Protel, Inc.	Greg Hogan	
Qwest Communications	Brett Kaye	

COMPANY	CONTACT	# PHONES IN TN
Triad, Inc.	Hal Riley	
Universal Communications, Inc.	Cheryl Barker	
TOTALS		7,091

Mailed Dues Invoice December 10, 1998.

Mailed Second Notices January 8, 1999.

Called Members of Non-Paid Dues January 27, 1999.

Mailed Final Notices February 8, 1999.